

17430 Laurel Park Drive North  
Suite 120 E  
Livonia, Michigan 48152  
Website: www.mikecoxlaw.com

THE  
**MIKE COX**  
LAW FIRM

Telephone: (734)591-4002  
Facsimile: (734)591-4008  
Email: mc@mikecoxlaw.com

**TESTIMONY PROVIDING A GENERAL SUMMARY OF SENATE BILL 203**

**SENATE REGULATORY REFORM COMMITTEE**

**1:00 PM, WEDNESDAY, MARCH 8, 2017**

Dear Chairman Rocca, Vice-Chair Jones, Floor Leader Kowall, Senators Knollenberg, MacGregor, Hune, Warren, Hertel, and Johnson,

My name is Mike Cox and I am a lawyer who represent Amaya, the world's leading provider of online gaming products and services. Amaya is public-traded on the NASDAQ and is on the cutting edge of legal online gaming in America and across the world.

I want to thank you for the courtesy of sharing some thoughts and observations on Senate Bill 202, a bill that is substantially the same as Senate Bill 889 that was introduced and passed out of this committee last session. These observations come from my role as legal counsel for Amaya, but are also shaped in part on my prior experiences as a regulator here in Michigan.

Because this is a committee with long experience in public policy, and as importantly, long experience with common sense, I will not cite all the policy reasons in support of this bill: increased consumer protections from online scammers and illegal-off-shore sites, which includes not only theft of monies but ID theft as well; increased revenues for the State; and increases protection of children and problem gamers; but also increased choice for those who wish to game, in a manner which so many of our citizens are becoming so comfortable – online.

Let me start with some broad stroke points that give you some idea of where this bill has been, which I think can give you confidence in supporting this public policy measure.

1. **SB 203 is a prototypical example of the legislative process done right: it is the product of multiple workgroups over past year.** Over the course of the past year, Senator Kowall's office has diligently, and with great patience and a light hand, hosted at least a dozen comprehensive workgroups. Senator Kowall cast a wide net to gather everyone in the same room, share their thoughts on the latest draft (as the draft evolved), and express their respective positions.
2. **SB 203 is the product of collaboration between *all* of the interested parties in Michigan.**

To give you an idea, let me share just some of the participants in the many meetings:

a. From the regulatory or government side:

- i. Of course, Senator Kowall and his staff, including Dave Biswas, Senator Kowall's chief of staff and legislative director. Mr. Biswas applied both his legal skills and his people skills to make this process inclusive and productive.
- ii. Scott Hughes, the then Majority Counsel and now Deputy Chief of Staff for the Senate Majority Leader. From the very beginning, Mr. Hughes provide keen insights to push us to think harder about the bill(s); his questioning made this a much better bill. Stephanie McGuire from Senate Policy also weighed in on different issues.
- iii. Dave Murley, representing the Michigan Gaming Control Board. Dave provided us with his broad and deep perspective on Tribal and gaming issues.
- iv. Mike Gallagher, the Director of Government Affairs for the Michigan lottery. Mr. Gallagher appropriately kept us at arms-length from the Lottery.
- v. Mike Brownfield and Darrin Ackerman from the Governor's office
- vi. Various representatives of the Legislative Service Bureau ("LSB")

b. From the Detroit 3 casinos:

- i. Attorneys from MGM, Motor City, and Greektown have been at *every* meeting

c. From the Michigan's Indian tribes:

- i. Representatives on behalf of the Nottawaseppi Huron Band of the Potawatami (Firekeepers)
- ii. Pokagon Tribe (Four Winds)
- iii. Saginaw Chippewas (Soaring Eagle).

This, of course, does not include many others who attended to address discrete or particular topics.

3. **SB 203 is a product of collaboration with other states.** The bill is also a product of consulting with the regulators and private industry representatives from states that already do Internet gaming— especially New Jersey and Nevada. This concept—Internet gaming—is not anything new:
  - a. New Jersey has offered Internet gaming since November 2013;
  - b. Nevada has offered online poker since April 2013.

- c. Delaware has offered online gaming through its state lottery and state-owned horse racing tracks since 2012.
4. **SB 203 brings some concepts from the states that make Internet gaming work.** As a result, SB 203 is based on some of the existing concepts from New Jersey and Nevada, tailored to some of the unique concepts found in Michigan law.
  5. **SB 203 is tailored for Michigan and is constitutional.** For example, one of those concepts is Michigan's constitutional provision Article 4, Sec 41 that restricts the expansion of gambling without approval via popular vote. SB 203 addresses this issue by limiting the potential Internet gaming licensees to the existing 3 Detroit casinos and Indian tribes. By its terms, Article 4, Sec 41 has an exception or safe harbor for these parties: "This section shall not apply to gambling in up to three casinos in the City of Detroit or to Indian tribal gaming."
  6. **Internet gaming providers limited to those already offering gambling.** Accordingly, SB 203 limits Internet gaming providers to those who are already offering brick and mortar gambling to Michigan citizens—the Detroit casinos and the Indian tribes.
  7. **Internet gaming regulation is complementary to the GCRA.** Also, this Internet gaming legislation is intended to be complementary with the existing "brick and mortar" regulation – the 1997 Gaming Control and Revenue Act ("GCRA"). In other words, works in synch with the policy choices of the voters of Michigan at the ballot box in 1996 as amended by the Legislature in 1997.
  8. **SB 203 does not conflict with the GCRA.** Indeed, SB 203 disclaims any potential conflicts with the GCRA, as well as the state lottery:
    - a. Section 4(1): "A law that is inconsistent with this act does not apply to internet gaming as provided for by this act. This act does not apply to lottery games offered by the bureau of state lottery."
    - b. And, licensing under SB 203 is based on brick and mortar licensing for the Detroit 3 casinos under the GCRA.
  9. **Gaming Control Board will oversee Internet gaming.** The Gaming Control Board will continue to play the same regulatory oversight role, through the creation of an "internet gaming division" within the Board that licenses and regulates not only the providers of Internet gaming, but also the suppliers and platform providers. Thus the same regulatory scheme that has been so effective and successful over the past 20 years in both regulating the casinos will assume authority and jurisdiction over internet gaming.
  10. **Gaming Control Board will enact rules.** In addition to licensing the Internet gaming providers, the Board will promulgate rules specific to Internet gaming. (Section 10).

11. **Two pathways for tribal Internet gaming.** One of the unique features of Michigan's legislation that demonstrates the collaborative nature of the effort is the option for tribes to participate in Internet gaming. As a result of consultation with tribal representatives, SB 889 contains two paths for tribes to participate:
- a. (1) Licensing in the same manner as the Detroit 3 under Section 6 of the bill – tribes would be required to waive their sovereign immunity as part of such license and subject themselves to enforcement by the Michigan Gaming Control board in the same manner as the casinos.
    - i. A tribe that is licensed would also pay the same 10% tax on Internet gaming revenue as the Detroit 3 casinos.
  - b. (2) The IGRA compact process under Section 7 of the bill – tribes have the option of negotiating a new compact or an amendment to an existing compact to provide for Internet gaming. Section 7 lists the various requirements for such a compact to ensure that the compact regulation process is as analogous to the licensing option as possible and that tribes that choose the licensing option are on the same level as tribes that participate in Internet gaming through a compact.
12. **Tribal revenue sharing payments.** One issue with respect to Indian tribal gaming is the impact that SB 203 will have on tribal exclusivity clauses and the impact on the revenue sharing payments that the State of Michigan currently receives from tribal gaming.
- a. In 2015 (2016 numbers have not been finalized yet by the Gaming Control Board), the State of Michigan received approximately \$43 million in revenue sharing payments from 5 tribes:
    - i. Pokagon (Four Winds)
    - ii. Notawaseppi (Firekeepers)
    - iii. Ottawa
    - iv. Odawa
    - v. Keewanaw Bay
  - b. Of these tribes, 80% of the current revenue comes from Pokagon and Notawaseppi tribes, and those tribes are directly interested in participating in the online gaming.
  - c. As for the other 4 tribes that do have exclusivity clauses, our legal analysis concluded that it is unlikely that any of those exclusivity provisions will be triggered and cause any loss of revenue sharing payments to the State of Michigan.
13. **Revenue projections for the State of Michigan.** Indeed, legalization of online gaming will result in a positive net revenue increase for the State of Michigan.

- a. Even in the worst case scenario where the tribes invoke their exclusivity clauses (except for Pokagon, which does not have an exclusivity provision), SOM is guaranteed \$17 million from Pokagon, plus a minimum of \$45 million NEW revenue from Detroit online gaming operations (based on New Jersey numbers). This total revenue number of \$62 million exceeds the current Indian-only revenue stream by \$18.1 million.
- b. The more likely scenario, where the tribes continue to pay at least \$40.4 million in revenue sharing, plus an additional \$59.4 in NEW revenue from Detroit online gaming operations<sup>1</sup> for a total \$99.8 million in revenue. This total revenue number of \$99.8 million exceeds the current Indian-only revenue stream by \$55.9 million.

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<sup>1</sup> The \$59.4 million revenue figure represents an estimated 10% increase over New Jersey, due to Michigan having a higher population, and a 20% revenue growth based on the increase in game size based on multi-jurisdictional agreements with states like New Jersey and Nevada.